

IN THE IOWA DISTRICT COURT FOR OSCEOLA COUNTY

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| █████, by and through his mother, █████, and █████, individually, | : | CASE NO. LACV020030 |
| | : | |
| Plaintiffs, | : | |
| | : | |
| vs. | : | |
| | : | |
| SIBLEY-OCHEYEDAN COMMUNITY SCHOOL DISTRICT; MEDIAPOLIS COMMUNITY SCHOOL DISTRICT; SIOUX CITY COMMUNITY SCHOOL DISTRICT, and AKRON-WESTFIELD COMMUNITY SCHOOL DISTRICT, | : | |
| | : | |
| Defendants. | : | |

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| SIBLEY-OCHEYEDAN COMMUNITY SCHOOL DISTRICT, | : | |
| | : | |
| Cross-petitioner, | : | |
| | : | |
| vs. | : | |
| | : | |
| MEDIAPOLIS COMMUNITY SCHOOL DISTRICT; SIOUX CITY COMMUNITY SCHOOL DISTRICT and AKRON- WESTFIELD COMMUNITY SCHOOL DISTRICT, | : | CROSS-PETITION and JURY DEMAND |
| | : | |
| Defendants to Cross-Petition, | : | |

COMES NOW Sibley-Ocheyedan Community School District and by way of its cross-petition states:

I. GENERAL ALLEGATIONS.

1. Sibley-Ocheyedan Community School District has been named as a Defendant by the original Plaintiffs, █████, by and through his mother, █████, and █████, individually, claiming damages arising from the actions of a former employee, Kyle Ewinger.

2. Kyle Ewinger was previously employed by each of the defendants to the cross-petition as a licensed teacher in Iowa.

3. During the course of his employment with each defendant to the cross-petition, Kyle Ewinger was known to have exhibited behavior which should have been reported to the Iowa Board of Educational Examiners (BOEE), the agency overseeing Iowa teachers.

4. Each defendant to the cross-petition did not report to the BOEE or disclose to the general public or to Sibley-Ocheyedan Community School District immoral and/or improper behavior.

II. MEDIAPOLIS COMMUNITY SCHOOL DISTRICT.

5. Plaintiff repleads the allegations in paragraphs 1-4 as though fully set forth herein.

6. Kyle Ewinger was employed at Mediapolis Community School District from August 2000 to November 2004.

7. During his employment with Mediapolis Community School District, Kyle Ewinger was discovered to be involved in inappropriate and unprofessional conduct with a student.

8. The Mediapolis Community School District released Kyle Ewinger as a teacher and negotiated an agreement to sever his employment with full payment of his 2004-2005 contract.

9. The Mediapolis Community School District did not report Kyle Ewinger's behavior and discharge to the BOEE. This non-reporting allowed Kyle Ewinger to maintain his teaching license to continue to teach in Iowa. Reporting was required by Iowa Code 272.15.

10. By maintaining his teaching license, Kyle Ewinger was later employed in the Sibley-Ocheyedan Community School District. Mr. Ewinger's background check had no record of child abuse, as no one reported child abuse.

11. This failure to report by Mediapolis Community School District is negligence per se.

12. This failure to disclose is negligence to future employers.

13. This failure to report by Mediapolis Community School District acting by its superintendent and board of directors is a violation of a duty of disclosure as it concealed immoral behavior by a teacher. .

14. Each of these theories provides for a judgment over for all or a just amount of any judgment if entered against Sibley-Ocheyedan Community School District.

WHEREFORE, judgment over against Mediapolis Community School District of any judgment against Sibley Ocheyedan Community School District over is requested.

COUNT III. AKRON WESTFIELD COMMUNITY SCHOOL DISTRICT.

15. Plaintiff repleads the allegations in paragraphs 1-4 as though fully set forth herein.

16. Kyle Ewinger was employed with the Akron-Westfield Community School District from 2006 to 2009.

17. During his employment with the Akron-Westfield Community School District, Kyle Ewinger was discovered to be involved in inappropriate and unprofessional conduct with a student.

18. The Akron-Westfield Community School District did not report Kyle Ewinger's behavior to the BOEE. This non-reporting allowed Kyle Ewinger to maintain his teaching license to continue to teach in Iowa. Reporting was required by Iowa Code 272.15.

19. By maintaining his teaching license, Kyle Ewinger was later employed in the Sibley-Ocheyedan Community School District. Mr. Ewinger's background check had no record of child abuse, as no one reported child abuse.

20. Sibley-Ocheyedan Community School District did a reference check and called the Akron-Westfield Community School District but there was non-disclosure of the problems with Kyle Ewinger.

21. This failure to report by Akron-Westfield Community School District is negligence per se.

22. This failure to disclose is negligence to future employers.

23. This failure to report by Akron-Westfield Community School District acting by its superintendent and board of directors is a violation of a duty of disclosure as it concealed inappropriate behavior by a teacher.

24. Each of these theories provides for a judgment over for all or a just amount of any judgment if entered against Sibley-Ocheyedan Community School District.

WHEREFORE, judgment over against Akron-Westfield Community School District of any judgment against Sibley-Ocheyedan Community School District is requested.

IV. SIOUX CITY COMMUNITY SCHOOL DISTRICT.

25. Plaintiff repleads the allegations in paragraphs 1-4 as though fully set forth

herein.

26. Kyle Ewinger was employed with the Sioux City Community School District from 2009 to 2012..

27. During his employment with the Sioux City Community School District, Kyle Ewinger was discovered to be involved in inappropriate and unprofessional conduct with a student as reported to the district by a human services employee.

28. The Sioux City Community School District did not report Kyle Ewinger's behavior to the BOEE. This non-reporting allowed Kyle Ewinger to maintain his teaching license to continue to teach in Iowa. Reporting was required by Iowa Code 272.15.

29. By maintaining his teaching license, Kyle Ewinger was later employed in the Sibley-Ocheyedan Community School District. Mr. Ewinger's background check had no record of child abuse, as no one reported child abuse.

30. Sibley-Ocheyedan Community School District did a reference check and called the Sioux City Community School District but there was non-disclosure of the problems with Kyle Ewinger.

31. This failure to report by Sioux City Community School District is negligence per se.

32. This failure to disclose is negligence to future employers.

33. This failure to report by Sioux City Community School District acting by its superintendent and board of directors is a violation of a duty of disclosure as it concealed inappropriate behavior by a teacher.

34. Each of these theories provides for a judgment over for all or a just amount of any judgment if entered against Sibley-Ocheyedan Community School District.

WHEREFORE, judgment over against Sioux City Community School District of any judgment against Sibley-Ocheyedan Community School District is requested.

JURY DEMAND.

COMES NOW Defendant, Sibley-Ocheyedan Community School District, and requests a jury trial on all issues herein.

/s/ Stephen F. Avery

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